

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.1410 of 1999

Dated: 05.07.2006

Between

M/s. S.S.Hatcheries rep., by its
Partner S.Nageshwar

.....Petitioner

and

1.The Employees Provident Fund
Appellate Tribunal, Nehru Place,
New Delhi, 110 019 rep., by its
Presiding Officer and another.

....Respondents

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ORDER:

The grievance of the petitioner is that the impugned order was passed without properly considering the contentions raised by the petitioner. The appeal was partly allowed observing as under:

“The finding of the APFC that appellant’s establishment is a poultry farm is confirmed but the determination of the PF dues is set aside. The respondent is directed to re-determine the PF dues after exempting the employees share of PF contribution. The amount deposited by the appellant after adjusting therefrom the employers share plus 12% cumulative interest per annum thereon shall be refunded back if there is something in excess. However, if there is some deficiency and if the appellant deposits the same within 2 months from the date of determination by the APFC then no proceeding under Section 14B of the Act shall be taken. If the account of appellant has been seized by the APFC that should be released with immediate effect.”

But the appellate authority did not decide as to whether the provisions of the Provident Fund Act are applicable to the petitioner organization or not.

Under those circumstances, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the appellate authority for fresh consideration. The appellate Authority shall consider the matter on the basis of evidence led by

the parties as to the applicability of the provisions of Provident Fund Act in respect of the petitioner organization and then proceed further as to the determination of the dues. Till such consideration, no coercive steps shall be taken for the purpose of recovery of any amounts due since the petitioner has stated that he has already deposited 75% of the amount as per the demand made by the respondents, which is in dispute.

05.07.2006

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